

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.14762 of 1999

21.11.2007

Between:

Kondrothu Sooramma, W/o.Pydithalli

...Petitioner

And

Land Acquisition Officer-cum-Special Deputy Collector,
YPR Unit-3, Peddapuram

And others

...Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.14762 of 1999

ORDER:

Petitioner alleges that her father, Peraiah, and her two brothers, Apparao and Ramulu, donated land comprised in survey Nos.72/2B and 75/2A situated at Yeleswaram village to her and her sister under registered settlement/gift deed dated 11.11.1956. It is also further case of petitioner that son of her sister partitioned the property whereafter for the balance of land admeasuring Acs.1.01, passbook was issued in her favour under Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971. Land admeasuring Acs.1.33 in survey No.72/2B2 and Acs.0.31 in survey No.72/2B2 was acquired by first respondent under Land Acquisition Act, 1894 (the Act, for brevity) for Yeleswaram Project under Award No.19/90 dated 26.11.1990. However the dispute regarding entitlement as well as apportionment was referred by first respondent under Section 30 of the Act to the Court of Senior Civil Judge, Peddapuram, which is pending.

Petitioner filed I.A.No.186 of 1992 in the said O.P. under Order I Rule 10 of Code of Civil Procedure, 1908 (CPC) seeking impleadment. By order dated 02.4.1999 learned Senior Civil Judge dismissed application for impleadment placing reliance on the decision of this Court in **Cyprus Investment (P) Ltd v Mohd. Fareeduddin Khan**^[1]. Petitioner therefore issued notice dated 05.3.1999 to first respondent to send corrected/ amended reference impleading her as one of the claimants, in vain. Therefore, she filed the present writ petition seeking a direction to first respondent to send additional reference to Civil Court.

Petitioner did not participate in the Award enquiry before Land

Acquisition Officer (LAO), first respondent herein. The reason is that her name was not mentioned as owner either in the notification under Section 4(1) of the Act or in the declaration under Section 6 of the Act. The same however does not disentitle petitioner for compensation as she is allegedly acquired ownership rights under registered gift deed dated 11.11.1956. Therefore she is a person interested in the reference under O.P.

A Division Bench of this Court in **Cyprus Investment (P) Ltd** (supra), has taken a view that having regard to the provisions of Sections 30 and 53 of the Act, an application under Order I Rule 10 CPC would not lie. The view of the Division Bench however is no more good law. A Full Bench of five learned Judges of this Court, to which I was a member, in **Repaka Bhyravamurthy v M.Venkataraju**^[2] considered the question whether the provisions of Order I Rule 10 CPC are applicable in a reference under Section 30 of the Act. The Full Bench by unanimous decision answered reference as below.

A person may not be entitled to be impleaded as a party only for the purpose of enhancement of compensation, but if any other question arises which touches the issue of his entitlement or apportionment to the amount of compensation, the same may be considered by reason of an application under Order I Rule 10, CPC.

In view of the ratio laid down by Full Bench of this Court, petitioner can still maintain application under Order I Rule 10 CPC in O.P.No.14 of 1991 on the file of the Court of learned Senior Civil Judge, Peddapuram. She is given liberty to file fresh application under Order I Rule 10 CPC. As and when such application is filed, learned Senior Civil Judge shall decide the same keeping in view Full Bench decision of this Court in **Repaka Bhyravamurthy** (supra).

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

(V.V.S.RAO, J)

November 21, 2007
YS

^[1] 1993(3) ALT 246 (DB)

^[2] 2001(5) ALT 565 (LB)